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15 **UNITED STATES DISTRICT COURT**  
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17  
18 UNITED DESERT CHARITIES,  
FRED EDE, III, EMILY WILLIAMS,  
19 BRUCE PRITCHARD, and JEAN  
STEINER, on behalf of themselves and  
20 all others similarly situated,

21 Plaintiffs,

22 v.

23 SLOAN VALVE COMPANY,  
AMERICAN STANDARD BRANDS  
24 AS AMERICA, INC., KOHLER CO.,  
GERBER PLUMBING FIXTURES,  
25 LLC, MANSFIELD PLUMBING  
PRODUCTS, LLC, and HOME  
26 DEPOT, U.S.A., INC.,

27 Defendants.  
28

Case No. CV12-06878 SJO (SHx)

**JOINT STATUS REPORT  
REGARDING SETTLEMENT**

Action Filed: August 9, 2012

*The Honorable S. James Otero*

Berube v. Flushmate  
2:13-cv-02372-SJO-SH

Brettler v. Flushmate  
2:13-cv-02499-SJO-SH

Kubat, et al. v. Flushmate  
2:13-cv-02425-SJO-SH

Patel v. Flushmate  
2:13-cv-02428-SJO-SH

1 Pursuant to this Court's Order dated September 30, 2013, the parties to the  
2 above-captioned Consolidated Action submit this joint report to update the Court  
3 with regard to ongoing settlement negotiations.

4 On April 18 and 19, and May 13 and 14, 2013, the parties participated in a  
5 mediation of this Consolidated Action before the Hon. William J. Cahill (Ret.) at  
6 JAMS' offices in San Francisco, California. The plaintiffs in *Dimov, et al. v. Sloan*  
7 *Valve Co.* (the "*Dimov Action*"), currently pending in the Northern District of  
8 Illinois, Case No. 1:12-CV-09700, also participated in the mediation. On May 17,  
9 2013, the parties, including the Dimov plaintiffs, reached agreement in principle  
10 with regard to the terms of a nationwide class settlement, which, subject to  
11 preliminary and final approval under Rule 23 of the Federal Rules of Civil  
12 Procedure, would dispose of this Consolidated Action and the *Dimov Action*.

13 On May 21, 2013, the parties filed a joint stipulation to stay the proceedings  
14 to allow the parties to devote their time and attention to the preparation of the  
15 settlement agreement and supporting documents. [Dkt. 91]. The Court granted the  
16 parties' request and ordered a 60-day stay in an Order dated May 28, 2013. [Dkt.  
17 92].

18 On June 6, Plaintiffs provided Defendants with a draft settlement agreement.  
19 Defendants returned their comments on the draft on June 14. The exchange of  
20 drafts brought to light some inconsistent views of the parties concerning the  
21 inclusion of certain claims in the settlement.

22 The parties immediately resumed settlement negotiations and participated in  
23 another full-day mediation session with Hon. William J. Cahill (Ret.) on July 25,  
24 2013. The parties continued to negotiate after the conclusion of the mediation and  
25 reached agreement in principle regarding the disputed claims on July 29, 2013. The  
26 agreement reached on July 29 expanded the contemplated settlement to include a  
27 new category of claims, additional forms of relief, and additional contingent  
28

1 payments into the settlement fund.

2 On July 30, 2013, the parties submitted a joint status report to inform the  
3 Court of their ongoing negotiation of the full settlement agreement and to request  
4 that the Court extend the stay in this matter to September 30. The Court granted the  
5 parties' joint request in an Order dated August 2, 2013. [Dkt. 106].

6 During August, Flushmate provided additional discovery to Plaintiffs, and  
7 Plaintiffs significantly revised the settlement agreement to incorporate the new  
8 claims, relief, and payment structure contemplated by the July 29 agreement. In  
9 September, the parties exchanged multiple drafts of the settlement agreement and a  
10 separate and detailed claims protocol, while Plaintiffs developed a proposed notice  
11 plan and worked closely with an experienced claims administrator. On September  
12 30, 2013, the parties submitted a joint status report and a request that the Court  
13 extend the stay to November 29, 2013. The Court granted the parties' request in an  
14 Order dated September 30, 2013. [Dkt. 110].

15 Since that time, the parties have continued to negotiate the details of this  
16 complex settlement, and substantial progress has been made towards completion of  
17 the settlement agreement, notice plan, proposed forms of notice, claims protocol,  
18 and claim forms. The parties have also selected a claims administrator to oversee  
19 the distribution of the settlement fund subject to court approval. Plaintiffs have also  
20 noticed depositions and are seeking additional documents prior to execution of any  
21 agreement. Defendants need additional time to produce certain documents to  
22 Plaintiffs and produce the appropriate witnesses. Due to the upcoming holiday, the  
23 parties expect to complete this additional discovery in December 2013.

24 Additionally, the parties are now engaged in discussions concerning amendment of  
25 the complaint, enlargement of the proposed settlement class, and a simplification of  
26 the claims protocol and claims process. As a consequence of these developments,  
27 the parties are unable to file a motion for preliminary approval of the settlement at  
28

1 this time and respectfully request that the Court extend the stay for an additional 60  
2 days, to January 28, 2014. The parties further propose that they provide a further  
3 status report to the Court not later than January 28, 2014. A Stipulation and  
4 [Proposed] Order Extending Stay is being filed concurrently herewith.  
5

6 Dated: November 26, 2013

Respectfully submitted,

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CERTIFICATION

Pursuant to Civil Local Rule 5-4.3.4(a)(2)(i), Steven H. Frankel, the ECF User whose identification and password are being used to file the foregoing JOINT STATUS REPORT REGARDING SETTLEMENT, attests that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

Dated: November 26, 2013

/s/ Steven H. Frankel  
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